

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:

IES UTILITIES INC.

DOCKET NO. P-843

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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO TAKE  
OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued May 31, 2001)

On March 27, 2001, IES Utilities Inc. (IES) filed a petition for a permit to construct, operate, and maintain approximately 3.5 miles of 8-inch diameter steel pipeline for the transportation of natural gas in Poweshiek County, Iowa, pursuant to Iowa Code §§ 479.5 and 479.6 (2001) and 199 Iowa Administrative Code (IAC) 10.2. IES amended its petition on April 20, 2001. The proposed pipeline will transport natural gas from an existing IES natural gas pipeline within the corporate limits of Grinnell, Iowa, in the S ½ of the SW ¼ of Section 10, T80N, R16W in Poweshiek County, to a new Monsanto seed corn drying facility and to individual landowners east of Grinnell, Iowa.

On May 7, 2001, the Utilities Board (Board) assigned this proceeding to a presiding officer and directed that a procedural schedule be established and a date set for hearing.

IES filed a land restoration plan with its petition. The plan will be evaluated for compliance with the requirements of Iowa Code § 479.29 and 199 IAC 9 in this docket.

### **The Board's authority and jurisdiction**

The Board has authority to grant permits for pipelines in whole or in part upon terms, conditions, and restrictions as to safety requirements, and as to location and route, as it determines to be just and proper. Iowa Code §§ 479.12 and 479.18 (2001).

To obtain a permit, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code § 479.12 (2001). The petitioner must also satisfy the financial requirements of Iowa Code § 479.26 (2001).

### **The issues**

Pursuant to Iowa Code §§ 479.7 and 479.8 (2001) and 199 IAC 10.6, this matter will be set for a public hearing for the presentation of oral and documentary evidence and the cross-examination of witnesses concerning the public convenience and necessity issue, any safety issues, any pipeline location and route issues, the financial issues, and issues raised by objectors or any other party. Whether or not the land restoration plan meets the requirements of the statute and rules will also be reviewed. The conduct of this case will be governed by Iowa Code Chapters 17A and 479 (2001), and by Board rules at 199 IAC chapters 9 and 10.

**Prepared testimony and exhibits**

All parties will be given the opportunity to present and respond to evidence and argument on all issues, and to be represented by counsel at their own expense. Iowa Code § 17A.12(4) (2001). The proposed decision and order that the administrative law judge will issue in this case must be based on evidence contained in the record and on matters officially noticed in the record. Iowa Code §17A.12(8) (2001). Unless contrary arrangements are made on the record at the hearing, all evidence will be received at the hearing, and the record will be closed to any further evidence at the conclusion of the hearing.

The submission of prepared evidence prior to hearing will help to identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. The use of prepared testimony prevents surprise at the hearing and helps each party to prepare adequately for the hearing, so that a full and true disclosure of the facts can be obtained. Iowa Code §§ 17A.14(1), 17A.14(3) and 479.11 (2001). This procedure also tends to diminish the length of the hearing, and spares the parties the expense and inconvenience of additional hearings.

IES must submit prepared testimony and exhibits prior to the hearing. At a minimum, IES' prepared testimony must address the issues listed above, and the issues identified in the attached report from Mr. Don Stursma.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate), and any objectors may also file prepared testimony and exhibits before the hearing in accordance with the procedural schedule.

Parties who choose not to file prepared testimony and exhibits before the hearing will not be precluded from participating in the proceedings. If an objector, for example, does not intend to present evidence going substantially beyond the information contained in the letter of objection, it is unnecessary for the objector to file prepared testimony. However, when a party has a substantial amount of information to present to the Board about the petition, if the information has not been previously disclosed to the Board, it should be presented in the form of prepared testimony and exhibits according to the procedural schedule established below.

#### **Party status**

Presently, IES and the Consumer Advocate are parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2 (2001). Currently, only one person, Ms. Kathryn E. Thompson, has filed an objection in this case. In her objection, Ms. Thompson stated that "If the proposed Alliant pipeline project is determined to be constructed on my property, or adjacent to my property, or both, I wish to submit and have on file, this objection." Ms. Thompson's property is adjacent to a northern route not selected by IES. Therefore, it appears that Ms. Thompson's property will not be affected by

the route chosen by IES. It would be helpful if Ms. Thompson would file a withdrawal of her objection if she no longer objects to the proposed route.

Anyone who has filed or will file an objection pursuant to Iowa Code §§ 479.9 and 479.10 (2001) and 199 IAC 10.5 will also be presumed to be a party to this case. However, no objector is entitled to party status merely because that person has written a letter. In order to qualify as a party, the objector must be able to demonstrate some right or interest, which may be affected by the granting of the permit. Iowa Code § 479.9 (2001). An objector's status as a party may be challenged at the hearing, and an objector who cannot demonstrate a right or interest that may be affected by the granting of the permit will no longer be considered a party. Therefore, at minimum, objectors should be prepared to give evidence that will explain the nature of their specific rights or interests they believe should be protected, and will show how these rights or interests will be affected by the pipeline. As has already been noted, to the extent that the evidence goes substantially beyond information already communicated to the Board in an objection letter, it should be reduced to writing and filed as prepared testimony according to the procedural schedule established below.

Because objectors will be presumed to be parties up to the time of the hearing, an objector will receive copies of all documents that are filed in this docket after the letter of objection has been filed with the Board. This means that if a person files an objection after some or all of the prepared testimony and exhibits have already been filed with the Board by other parties, the objector should make

direct contact with the parties who have already filed prepared testimony and exhibits in order to obtain a copy of those materials. The official file of this case will be available for inspection at the Iowa Utilities Board Records Center, 350 Maple Street, Des Moines, Iowa. 199 IAC 1.9(1).

Objections must be filed not less than five days prior to the date of hearing. Late filed objections may be permitted if good cause is shown. 199 IAC 10.5. Objections must be made in writing and filed with the Acting Executive Secretary of the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

After an objector has filed a letter of objection, all further communications from the objector to the Board having to do with this case (including motions or prepared testimony and exhibits) should be sent to the Acting Executive Secretary. A party (including objectors) must file an original and two copies of each communication with the Acting Executive Secretary and the party must send one copy to each of the other parties to this case. 199 IAC 1.8. Along with the communication being sent, the party must file with the Board a certificate of service that conforms to 199 IAC 2.2(16), that verifies a copy of the document was served upon the other parties. These procedures are necessary to comply with Iowa Code Chapter 17A, that provides in part:

Unless required for the disposition of ex parte matters specifically authorized by statute, parties or their representatives in a contested case and persons with a direct or indirect interest in such a case *shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with a presiding officer in that contested case, except upon notice and*

*opportunity for all parties to participate* as shall be provided for by agency rules.

Iowa Code §§ 17A.17(2) (2001)(emphasis added). Objectors and parties should examine 199 IAC Ch. 10 and 199 IAC 1.8 for other substantive and procedural rules that apply to this case.

**Proposal to take official notice**

Mr. Don Stursma, manager of the Safety & Engineering Section, has prepared a report concerning IES' petition pursuant to Iowa Code § 479.11 (2001). He also prepared a memo to the file regarding the route inspection. Copies of the report and the memo, both dated May 25, 2001, are attached to this order. Pursuant to Iowa Code § 17A.14(4) (2001), the administrative law judge proposes to take official notice of the report and the memo and of the facts contained therein, thus making them a part of the record of this case. Iowa Code § 17A.12(6)(c) (2001). Any party objecting to the taking of official notice of the report or memo should file such objection as soon as possible, and no later than five days prior to the hearing. The parties will have the opportunity to contest any information contained in the report and memo in prefiled testimony and at the hearing.

**IT IS THEREFORE ORDERED:**

1. Each person who files a letter of objection to IES' petition in this docket will be presumed to be a party in the proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the pipeline.

2. Objections must be made in writing and filed with the Acting Executive Secretary of the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, no later than five days before the hearing. Objectors must file an original and two copies of all subsequent communications to the Board with the Acting Executive Secretary. The communications must be accompanied by a certificate of service.

3. The following procedural schedule is established:

a. On or before June 14, 2001, IES must file prepared direct testimony relating to its petition for a permit to construct, operate and maintain a natural gas pipeline.

b. On or before June 21, 2001, the Consumer Advocate and any objector may file prepared responsive testimony.

c. A public hearing for the presentation of evidence and the cross-examination of witnesses concerning the issues identified in this notice of hearing will be held at 10:00 a.m. on June 28, 2001, in the Board Hearing Room, 350 Maple Street, Des Moines, Iowa. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

4. The administrative law judge proposes to take official notice of Mr. Stursma's report and memo attached to this order dated May 25, 2001 and of the facts contained therein. Any party objecting to the taking of official notice of the report or memo should file such objection as soon as possible, and must file such



objection no later than five days prior to the hearing. Any party desiring to cross-examine Mr. Stursma concerning the statements contained therein must file a notice of intent to cross-examine no later than June 25, 2001.

5. Pursuant to Iowa Code §§ 17A.12(1) (2001) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon IES, the Consumer Advocate, and Ms. Kathryn E. Thompson, objector.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper  
Acting Executive Secretary

Dated at Des Moines, Iowa, this 31<sup>st</sup> day of May, 2001.

**Department of Commerce**  
**UTILITIES DIVISION**  
**SAFETY AND ENGINEERING SECTION**

**TO:** DOCKET NO. P-843

**FROM:** DON STURSMAN

**DATE:** MAY 25, 2001

**SUBJ:** ALLIANT ENERGY/IES UTILITIES PETITION  
FOR NATURAL GAS PIPELINE PERMIT

On March 27, 2001, in compliance with Iowa Code Chapter 479, Alliant Energy/IES Utilities (IES) filed a petition for a natural gas pipeline permit with the Iowa Utilities Board (Board). IES proposes to construct approximately 3.5 miles of 8-inch diameter pipeline in Poweshiek County, Iowa, for the transportation of natural gas to a new Monsanto seed corn drying facility and to individual landowners east of Grinnell, Iowa. The maximum allowable operating pressure of the proposed pipeline will be 250 psig.

IES held an informational meeting on the proposed project on January 18, 2001, pursuant to Iowa Code § 479.5 (2001). On February 2, 2001, Kathryn E. Thompson filed an objection. On May 2, 2001, the Board issued an order assigning the proceeding to a presiding officer to establish a procedural schedule and set a date for hearing.

**Petition**

A review of the petition revealed several deficiencies. By letter dated April 16, 2001, staff notified IES of the deficiencies. On April 20, 2001, IES filed its response and amended exhibits. Staff has reviewed the filing. It appears the deficiencies noted in the letter are corrected.

To grant a permit, Iowa Code § 479.12 (2001) requires the Board to find that the project will "promote the public convenience and necessity." The law or rules do not require that information to support a finding of public convenience and necessity be filed with the petition. Justification for the project will need to be made at the hearing.

At this time the petition does not include Exhibit "E," the showing of right required in this instance to confirm that the Iowa Department of Transportation has approved placing the pipeline in road right-of-way. However, a permit can be issued without this exhibit. Paragraph "e" of 199 IAC 10.2(1) allows this document to be filed at any time prior to construction.

At this time, Exhibit E consists only of a statement that a permit will be obtained from the Iowa Department of Transportation (DOT) and will be filed prior to construction as allowed by 199 IAC 10.2(1)"e". However, DOT 761 IAC 115.25(1)"a", concerning longitudinal occupancy of utility facilities in non-freeway highway right-of-way, states:

With the exception of natural gas pipe lines with an operating pressure of 150 pounds per square inch or less, no carriers of transmittants that are flammable, corrosive, expansive or unstable shall be placed longitudinally within the right-of-way.

The proposed Maximum Allowable Operating Pressure (MAOP) for this pipeline is 250 psig. This would allow it to operate at any pressure up to 250 psig. It does not seem appropriate for the Board to grant a permit for a pipeline with a proposed operating pressure that would not comply with the rules of another state agency. Absent an Exhibit E filing showing the DOT has permitted the pipeline at the proposed pressure, an issue at hearing should be whether the pipeline permit, if granted, should restrict the actual operating pressure of this pipeline to 150 psig. IES should justify its request for a 250 psig MAOP at the hearing.

### **Route**

At the time of the Informational Meeting two routes were under consideration. One followed Iowa Highway 6, the other followed a gravel county road a mile north of Highway 6. Either side of the road, and either public or private right-of-way, could have been followed on either route. IES chose a southern route, one which originates at an existing IES pipeline near the DeKalb building in Grinnell and follows Iowa Highway 6 east, in the north road right-of-way, to the Monsanto site.

On January 18, 2001, and May 25, 2001, Don Stursma, Manager of the Engineering and Safety Section, conducted an inspection of the proposed routes. Land use along this highway is predominantly agricultural but includes a number of farmsteads and rural residences. As presently proposed the route is entirely on either highway right-of-way or on Monsanto property. Although the primary purpose of this project is to serve Monsanto, the route selected passes near the highest number of potential future gas customers (primarily residential) of any apparent route option.

On this route the pipeline would pass in close proximity to a number of rural residences built along the highway. An undated residence directory map provided by IES as part of Exhibit "F" shows what appear to be at least 10 residences between the Grinnell city limits and Monsanto, plus there are several additional residences and commercial buildings near the route in the city. It appeared in the field that two residences could be within about 25 feet of the pipeline, and possibly

three within 50 feet, depending where the pipeline is placed in the road right-of-way.

The land use between the two alternative routes discussed at the informational meeting remains open agricultural land. In Exhibit "F" IES discusses why it believes the south route is superior to the north route. However, the merits of a route that crosses open country and avoids close proximity to residences, as opposed to routes that follow roads, are never discussed. IES should be asked to discuss this at the hearing.

At many of the residences along Highway 6, the road right-of-way is mowed and maintained as if it were part of the front yard. Construction will dig up and disturb this area. Land restoration that might be adequate for road right-of-way might not be acceptable to residents who treat this part of their yard. IES should be asked to explain at hearing what standards it will use to restore the road right-of-way in front of residences. In addition, construction will cross a number of driveways to residences. IES should be asked to explain how access to homes by the residents will be maintained during construction.

The closer and more numerous the buildings near a pipeline, the greater the potential consequences of a pipeline accident. Federal pipeline safety standards classify routes as Location Class 1 - 4 according to the number of buildings intended for human occupancy within 220 yards, or places of public assembly within 100 yards (49 CFR 192.5). The higher the location class, the more stringent certain design and testing standards become. In and near Grinnell the route is in Location Class 3, as there are numerous buildings or dwellings adjacent and often very close to the road right-of-way. Away from town land use is predominantly agricultural and the building density is lower, and Location Class 1 could be assigned. However, a number of the homes along the route are of recent construction, indicating that rural development is occurring along this highway. Due to the apparent likely construction of additional new residences along this route, Location Class 3 would be more appropriate.

No natural obstacles to construction were observed. The land is flat in town to gently rolling in the country, and the road ditches are not particularly deep or steep-sided. In the country the ditches appeared to be about 30 feet wide or more from the edge of the shoulder to the right-of-way line, which should be ample for construction. In town the ditches were much narrower but were also shallower, and no unusual problems are anticipated. The three small streams that must be crossed are not a significant obstruction. Although there are a few trees near the edge of the road right-of-way, it did not appear construction would require their removal. Nor did it appear that any buildings, including a grain bin at the edge of the right-of-way, would be disturbed.

However, signs were observed indicating there is telephone cable and fiber optic cable in this right-of-way. And inside of Grinnell it appears there is already a

gas line in the ditch. IES should be asked to explain how it will avoid damaging these pre-existing facilities during construction.

### **Pipeline Safety Code Compliance**

The engineering standards for natural gas pipelines are set forth in 199 IAC 10.12. Construction will be subject to 49 CFR Part 192 and ASME B31.8. The information provided on Petition Exhibit C and in correspondence appears to indicate compliance with those codes. Although route inspection carefully examined the proximity of residences to the proposed pipeline, the safety codes do not prohibit construction near buildings.

Petition Exhibit C indicates the pipeline was designed and would be tested to meet Location Class 3 standards. Staff finds this consistent with the existing and probable future land use adjacent to the route as discussed above.

The proposed Maximum Allowable Operating Pressure (MAOP) for this project is 250 psig. This is an allowable pressure under the Board's engineering standards. However, as discussed above, it appears Iowa DOT rules will restrict the operating pressure of this pipeline to 150 psig.

### **Land Restoration Plan**

On January 10, 2001, in Docket No. RMU-99-10, In Re: Restoration of Agricultural Lands During And After Pipeline Construction, the Board adopted new rules prescribing standards for the restoration of agricultural lands during and after pipeline construction. The new rules require petitioners for permits for pipeline construction to file a written land restoration plan with the petition for permit and provide copies to all landowners. These rules are found at 199 IAC Chapter 9. IES filed such a plan as Exhibit F-1. In accordance with Subrule 9.2(1), a land restoration plan must include but not be limited to the following:

- 1) A brief description of purpose and nature of the pipeline project;
- 2) A description of the sequence of events that will occur during construction;
- 3) A description of how compliance with subrules 9.4(1) and 9.4(10) will be accomplished; and
- 4) The plan should include a point of contact for landowner inquiries or claims as provided for in rule 9.5.

A review of IES' plan finds that although the plan consists primarily of language duplicating rule 9.4, it adequately addresses 199 IAC 9.2(1)"a," "b," and "d," and appears to comply with the letter of Chapter 9 on required plan content.

Staff understands that the proposed pipeline route would be entirely either in road right-of-way, or on Monsanto property that would not be used for

agricultural purposes. If no agricultural land would be affected, no land restoration plan would be required. However, staff was advised by IES that it wished to keep the land restoration plan as part of the petition. Under Board rule 199 IAC 10.7, if a route is not "established definitely" a permissive deviation of up to 160 rods (half a mile) is allowed. With an approved plan, in the event that unexpected problems arose, the route could be shifted from road right-of-way to adjacent farm property. Unexplained is how this would be coordinated with the county, which must provide the land restoration inspector.

### **Objections**

An objection was filed on February 2, 2001, by Kathryn E. Thompson. The objection is primarily concerned with the impact of the project on property values. However, Ms. Thompson's property is in Section 3, T80N, R16W, and is adjacent to the northern route presented at the Informational Meeting. IES has selected the south route, a mile from her property. It appears the project, as currently proposed, would not impact Ms. Thompson's property.

### **Conclusion**

The route passes close to numerous dwellings but review and inspection did not reveal anything that would make the proposed route unacceptable for the construction, operation, and maintenance of the proposed pipeline. The filing is essentially in order. IES should address the following issues in testimony:

- 1) How the project would promote the public convenience and necessity (Iowa Code 479.12);
- 2) Why IES is requesting a Maximum Allowable Operating Pressure of 250 psig when Department of Transportation regulations do not permit a pipeline in highway right-of-way to operate above 150 psig;
- 3) Whether IES considered other routes not along roads prior to selecting the proposed route;
- 4) What standards will be used to restore land in front of residences that would be disturbed by pipeline construction;
- 5) How the access of residents to their homes will be maintained during construction;
- 6) How damage to existing telephone cable, fiber optic cable, and natural gas lines in the route will be prevented; and
- 7) Why IES proposes the Board approve a land restoration plan if none of the project will be on agricultural land, and if any part of the route were shifted to agricultural land how land restoration inspection would be coordinated with the county.

djs

## **IOWA UTILITIES BOARD**

### **Safety & Engineering Section**

**TO:** File

**FROM:** Don Stursma

**DATE:** May 25, 2001

**SUBJECT:** Route Inspection of Proposed IES Utilities 8" Natural Gas Pipeline Route in Poweshiek County; Docket No. P-843

The inspection was conducted on May 25, 2001. The weather was overcast with intermittent light rain and temperatures in the lower 60's.

IES is proposing to construct an 8-inch steel natural gas pipeline from inside the Grinnell city limits to a new Monsanto facility east of town in the north right-of-way of Highway 6. The petition filing indicates an MAOP of 250 psig.

In town the land is flat. The rural topography is moderately rolling. Between rural residences the land use is primarily tilled agricultural land. There are few fences along the road. Three small streams on the route would not pose a significant obstacle to construction. There were no trees except in residence yards, and it did not appear they would be threatened by construction.

The part of the route in Grinnell would be Location Class 3 using 49 CFR 192.5 criteria. The rural part would apparently Location Class 1 at this time, but because new residences are being built along this route Location Class 3 design in anticipation of continuing development would be appropriate.

At the time of the Informational Meeting on January 18, 2001, the road ditches were full of snow and observation was limited. It could now be determined that the ditches are about 30 feet wide (measured by pacing at an intersection) or more from the edge of the road shoulder to the right-of-way line. This should provide adequate construction space. The ditches in town are considerably narrower but are also shallow and no unusual construction problems are anticipated.

A number of the rural residences, plus those in town, mow and maintain the road right-of-way as part of their yard. Residential drives will also require restoration or boring.

Marker signs were observed indicating the presence of both telephone and fiber optic cables in the road ditch on the pipeline route. The signs said the cables belonged to GTE.

Great Plains Locating Company (name on marker flags, saw their truck) has marked the location of utilities on the route. The cables do not appear to be consistently located in the ditch so care will be needed to avoid damaging them during construction. Marker flags also showed there is already a gas line on this route within Grinnell.

The distance of residences from the route varies. Two; one in town and one at the edge of town; appeared within 25 feet of the route. Another two, and possibly a third depending on pipeline placement in the right-of-way, would apparently be within 50 feet. The closest structure is a farm grain bin located at the edge of the road right-of-way.

What appeared to be steel pipe for the pipeline was observed stockpiled at the Monsanto construction site.

Photos were taken along the route from east to west. With the exception of one photo in town all are taken facing west.